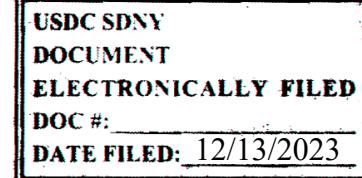


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GARY KEMP,

Petitioner,

20-CV-09121 (RA)(SN)

-against-

ORDER

JOSEPH NOETH,

Respondent.

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SARAH NETBURN, United States Magistrate Judge:

Petitioner filed his habeas petition on October 30, 2020, and an amended petition on December 8, 2020. After a series of extensions, Petitioner requested that the Court stay his petition to allow him to exhaust certain claims. That request was granted on August 12, 2021. After some delay in exhausting his claims, on January 11, 2023, the New York County Supreme Court denied Petitioner's § 440.10 motion. Recently, Respondent advised the Court that Petitioner has sought an extension of time to seek leave to appeal that decision. It is unclear when a decision on that application will be issued. In light of this history, it is no longer reasonable to delay this case.

Accordingly, by February 12, 2024, Petitioner shall file a Second Amended Petition raising every ground he seeks to pursue, including any unexhausted claims. The Second Amended Petition will replace the Amended Petition. Within 60 days thereafter, Respondent shall file and serve an answer, motion, or other response to the Second Amended Petition.

Petitioner may file a reply brief within 30 days after Respondent files a response. No further extensions will be granted.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: December 13, 2023
New York, New York